

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DuCONRAD DAVIES,

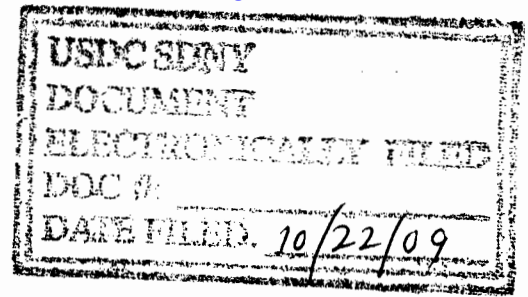
Petitioner,

-against-

MARC GOFFMAN, DHS/ICE,

Respondent.  
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KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE



**ORDER**

09 Civ. 07224 (PAC)(KNF)

Counsel to the respondent has advised the Court, by a letter dated October 8, 2009, that her "Office has been notified by [the United States Immigration and Custom Enforcement ("ICE") agency] that [DuConrad Davies ("Davies" or "the petitioner")] was released from detention on October 6, 2009." Attached to the letter, is a document entitled "Release Notification," which is dated October 6, 2009, and addressed to Davies. It states, inter alia, that ICE "has concluded that you may be released from ICE custody pending your removal from the United States." (emphasis added). An "order of supervision" is also provided, which sets forth certain conditions for Davies' release, and appears to be signed by Davies and dated October 6, 2009, to demonstrate that Davies was informed of the contents of the order of supervision. An "outprocessing checklist" is also attached to counsel's letter; the copy provided to the Court does not show whether the listed actions to be taken for "all aliens" was undertaken and completed. Moreover, a space is provided for the signature of the "deportation officer" who completed the form, and no signature is affixed. Based on these circumstances, it is not entirely clear that Davies has, in fact, been released from ICE custody.

The petitioner has filed, a petition for a writ of habeas corpus, pursuant to 28 U.S.C §

2241, challenging the “lawfulness of his detention by [ICE] for more than six months.” The respondent contends the petitioner’s habeas corpus petition is moot, since Davies was released from ICE custody on October 6, 2009. However, a petition for a writ of habeas corpus does not become moot automatically upon the release of a petitioner from custody; so long as the petitioner continues to demonstrate a live “case or controversy,” or, in other words, that “a ‘concrete and continuing injury’ that is a ‘collateral consequence’ of the detention” exists, the petitioner’s 28 U.S.C. § 2241 petition is not moot. So v. Reno, 251 F. Supp. 2d 1112, 1121 (E.D.N.Y. 2003).

Therefore, IT IS HEREBY ORDERED that, on or before November 20, 2009, the petitioner shall show cause, in writing, why the undersigned magistrate judge should not make a report and recommendation to the assigned district judge that this action be dismissed, as moot, because the relief sought in the underlying petition for a writ of habeas corpus has been obtained.

Dated: New York, New York  
October 22, 2009

SO ORDERED:

  
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KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE

Copies sent to:

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Patricia Buchanan, Esq.